



22 CFR Part 22

[Public Notice: 11379]

RIN 1400-AE15

Schedule of Fees for Consular Services – Passport Security Surcharge

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes an adjustment to the Schedule of Fees for Consular Services (Schedule of Fees) of the Bureau of Consular Affairs (CA) based on the findings of the most recently approved update to the Cost of Service Model (CoSM). The CoSM is updated annually using a combination of costs, predicted workload, and level of effort data. The proposed adjustment will result in a more accurate alignment of the fees for consular services to the costs of providing those services. The notice proposes an increased amount for the passport security surcharge, from \$60 to \$80, which the Department will retain.

DATES: The Department of State will accept comments until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may submit comments to the Department by any of the following methods:

- Visit the Regulations.gov website at: <http://www.regulations.gov> and search for the Regulatory Information Number (RIN) 1400-AE15 or docket number DOS-2021-0006.
- Email: fees@state.gov. You must include the RIN (1400- AE15) in the subject line of your message.
- All comments should include the commenter's name, the organization the commenter represents (if applicable), and the commenter's address. If the

Department is unable to read your comment for any reason, and cannot contact you for clarification, the Department may not be able to consider your comment. After the conclusion of the comment period, the Department will publish a final rule that will address relevant comments as expeditiously as possible.

During the comment period, the public may request an appointment to review Cost of Service Model (CoSM) data on site if certain conditions are met. To request an appointment, please call 202-485-8915 and leave a message with your contact information.

FOR FURTHER INFORMATION CONTACT: Rob Schlicht, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-485-8915, email: fees@state.gov.

SUPPLEMENTARY INFORMATION:

Background

The proposed rule makes changes to the Schedule of Fees in 22 CFR 22.1 by increasing the passport security surcharge fee from \$60 to \$80. The Department generally sets and collects fees for consular services based on the concept of full cost recovery to the U.S. government. The Department uses an Activity-Based Costing (ABC) methodology to calculate annually the cost of providing consular services. The fees are based on these cost estimates and the Department aims to update the Schedule of Fees biennially, unless a significant change in costs warrants an immediate recommendation to change the fees. The Department proposes this fee change based on the results of the most recently approved update to the CoSM, which reflect increases in security-related costs for processing passports attributed to the Passport Security Surcharge. Increases in security-related costs are largely due to increased compensation costs for passport adjudicators and enhanced printing technology costs for the Next

Generation (NextGen) passport book. The Department therefore proposes an increase to this surcharge to fully recover these costs.

What Is the Authority for This Action?

The Department of State derives the general authority to set and charge fees for consular services it provides from the general user charges statute, 31 U.S.C. 9701. *See, e.g.*, 31 U.S.C. 9701(b) (2) (A) (“The head of each agency . . . may prescribe regulations establishing the charge for a service or thing of value provided by the agency . . . based on . . . the costs to the government.”). As implemented through Executive Order 10718 of June 27, 1957, 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates.

Several statutes address specific fees relating to passports. For instance, 22 U.S.C. 214 authorizes the Secretary of State to set the passport application fee by regulation. In addition, another statute authorizes the Department to collect and retain a surcharge on passports to help pay for efforts to support enhanced border security. *See* 8 U.S.C. 1714. Although the passport security surcharge was originally frozen statutorily at \$12, subsequent legislation authorized the Department to amend this surcharge administratively, provided, among other things, that the resulting surcharge is “reasonably related to the costs of providing services in connection with the activity or item for which the surcharges are charged.” Public Law 109-472, section 6, 120 Stat. 3555, reproduced at 8 U.S.C. 1714 (note).

Certain people are exempted by law or regulation from paying specific fees. These are noted in the Schedule of Fees. For example, officers or employees of the U.S. Government proceeding abroad in the discharge of official duties are exempt from passport fees, including the passport security surcharge. *See* 22 U.S.C. 214(a); 22 CFR 22.1; 22 CFR 51.52(b).

Although the funds collected for some consular fees must be deposited into the general fund of the Treasury pursuant to 31 U.S.C. 3302(b), various statutes permit the Department to retain most of the fee revenue it collects. The Department retains the passport security surcharge collections (*see* 8 U.S.C. 1714).

The Department last changed fees for passport and citizenship services, including the passport security surcharge, in an interim final rule dated September 8, 2015. *See* Department of State Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, 22 CFR part 22 (80 FR 53704). Those changes to the Schedule went into effect September 26, 2015 per a correction to the effective date published as 80 FR 55242. A final rule regarding those fees was published on January 31, 2018 (83 FR 4423).

Why Is the Department Adjusting Fees at This Time?

The Department generally sets consular fees at an amount calculated to achieve full recovery of the costs to the U.S. Government of providing the consular service in a manner consistent with general user charges principles, regardless of the specific statutory authority under which the fees are authorized. As set forth in Office of Management and Budget (OMB) Circular A-25, as a general policy, each recipient should pay a reasonable user charge for government services, resources, or goods from which he or she derives a special benefit, at an amount sufficient for the U.S.

Government to recover the full costs of providing the service, resource, or good. *See* OMB Circular No. A-25, sec. 6(a)(2)(a). The OMB guidance covers all Federal Executive Branch activities that convey special benefits to recipients beyond those that accrue to the general public. *See* OMB Circular No. A-25, sections 4(a), 6(a)(1).

The Department reviews consular fees periodically, including through the annual update to its Cost of Service Model, to determine each fee's appropriateness in light of

the OMB guidance. The Department proposes to make the changes set forth below in the Schedule of Fees accordingly. The CoSM is an activity-based costing model that determines the current direct and indirect cost to the U.S. Government associated with each consular good and service the Department provides. The current model update relied on FY 2019 actual costs, as well as predicted workload and level of effort data for FYs 2020-2022, to provide unit cost estimates. The update's results formed the basis of the changes proposed to the Schedule. Fees have been rounded up to the nearest \$5 to make them easier to collect.

Activity-Based Costing

To set fees in accordance with the general user charges principles set forth in 31 U.S.C. 9701, the Department must determine the true cost to the U.S. Government of providing each consular service. Following guidance provided in "Managerial Cost Accounting Concepts and Standards for the Federal Government," OMB's Statement #4 of Federal Accounting Standards (SFFAS #4), available at <http://www.fasab.gov/pdffiles/sffas-4.pdf>, the Department chose to develop and use an Activity-Based Costing ("ABC") model to determine the true cost of each consular service.

The Government Accountability Office (GAO) defines ABC as a "set of accounting methods used to identify and describe costs and required resources for activities within processes." Organizations can use the same staff and resources (computer equipment, production facilities, etc.) to produce multiple products or services; therefore, ABC models seek to identify and assign costs to processes and activities and then to individual products and services through the identification of key cost drivers referred to as "resource drivers" and "activity drivers." The goal is to proportionally and accurately distribute costs. ABC models require financial and accounting analysis and modeling skills combined with a detailed understanding of an organization's business

processes. SFFAS Statement #4 provides a detailed discussion of the use of cost accounting by the U.S. Government.

The ABC approach focuses on the activities required to produce a particular service or product and uses resource drivers to assign costs through activities to services. Resource drivers assign the organization's costs (resources including materials, supplies and labor utilized in the production or delivery of services and products) to activities using business rules that reflect the operational reality of CA and the data available from consular systems, surveys, and internal records. Most resource drivers are based on time spent on each activity. Activity drivers differentiate levels of effort associated with activities (the work performed by the organization such as adjudication, printing of books and performing data intake, etc.) that are applied to each cost object and are often volume-driven.

Example: Imagine a Government agency that has a single facility it uses to prepare and issue a single product--a driver's license. In this simple scenario, every cost associated with that facility (the salaries of employees, the electricity to power the computer terminals, the cost of a blank driver's license, etc.) can be attributed directly to the cost of producing that single item. If that agency wants to ensure that it is charging a "self-sustaining" price for driver's licenses, it only has to divide its total costs for a given time period by an estimate of the number of driver's licenses to be produced during that same time period. However, if that agency issues multiple products (driver's licenses, non-driver ID cards, etc.), has employees that work on other activities besides licenses (for example, accepting payment for traffic tickets), and operates out of multiple facilities it shares with other agencies, it becomes much more complex for the agency to determine exactly how much it costs to produce any single product. In those instances, the agency would need to know what percent of time its employees spend on each service and how much of its overhead (rent, utilities, facilities maintenance, etc.) can be allocated

to the delivery of each service to determine the cost of producing each of its various products--the driver's license, the non-driver ID card, etc. Using an ABC model allows the agency to develop those cost estimates.

The Cost of Service Model

The Department has been conducting periodic cost of service studies using ABC methods to determine the costs of its consular services since 2009. In 2010, the Department moved to adopt an annually updated CoSM that measures all of its consular operations and costs, including all of the activities needed to provide consular services. The CoSM now includes approximately 112 distinct activities and enables the Department to model its consular-related costs with a higher degree of precision.

The Department uses three methods outlined in SFFAS Statement #4 (paragraph 149(2)) to assign resource costs to activities: (a) direct tracing; (b) estimation based on surveys, interviews, or statistical sampling; and (c) allocations. The Department uses direct tracing to assign the cost of, for example, a physical passport book. Assigning costs to activities such as adjudicating a passport application requires estimation based on surveys, interviews, or statistical sampling to determine who performs an activity and how long it takes. Indirect costs (overhead) are allocated according to the level of effort needed for a particular activity. Level of effort captures the time spent on an activity in minutes, hours, or number of full-time equivalent (FTE) employees, as measured in our overseas time surveys and domestic task reports. Where possible, the model uses overhead cost pools to assign indirect costs only to related activities. For instance, the cost of rent for domestic passport agencies is assigned only to passport costs, not to visas or other services the Department provides overseas.

To assign labor costs, the Department relies on a variety of industry-standard estimation methodologies. To document how consular staff divide their time overseas, the Department conducts surveys at a representative sample of consular sections overseas

each year. The Department uses survey data in conjunction with volume data from over 200 individual consular sections in consulates and embassies worldwide to develop resource drivers to assign labor costs to activities. For consular activities that take place in the United States, the Department collects volume and level of effort data from various periodic workload reports such as the Passport Management Information System (MIS) and the Agency Task Report (ATR). Cost information is gathered from reports in the Department's Global Financial Management System managed by the Bureau of the Comptroller and Global Financial Services (CGFS). The Department converts the cost and workload data into resource drivers and activity drivers for each resource and activity.

The Cost of Service Model uses actual costs, coupled with projected workloads, which are based on demand projections produced by the Bureau of Consular Affairs (CA). Actual cost and volume data is used in the model to inform projected costs and volumes. The model also uses three years of projected volume data to calculate unit costs.

The Department includes every line item of costs in the CoSM, including items such as physical material for making passports, salaries, rent, supplies, and IT hardware and software. The Department then determines a resource driver for each of these costs and enters the resource drivers and assignments into the model. The Department then selects an activity driver, such as the volume data discussed above, for each activity, in order to assign these costs to each service type. This process allows the model to calculate a total cost for each of the line items in the Schedule of Fees. The model then divides this total cost by the predicted volume of the service or product in question in order to determine a final unit cost for the service or product. The Department continues to refine and improve the CoSM annually in order to achieve full cost recovery for the U.S. Government.

Because the CoSM is a complex series of iterative processes incorporating more than a million calculations, it is not reducible to a tangible form such as a document. Inputs are formatted in spreadsheets for entry into the ABC software package, which is an industry standard commercial off-the-shelf product licensed through SAP Business Objects. The software's output includes spreadsheets with raw unit costs, validation reports, and management reports.

Proposed Passport Fee Changes:

Passport Security Surcharge

The Department proposes an increase to the passport security surcharge, which is applicable to all applicants except those persons who are statutorily exempted from paying passport fees, from \$60 to \$80. The passport security surcharge (PSS) includes costs associated with passport application processing that support enhanced border security (see 8 U.S.C. 1714 and Public Law 109-472, section 6, 120 Stat. 3555, reproduced at 8 U.S.C. 1714 note) such as the secure book and card materials, passport printers, and compensation associated with passport adjudication, including fraud prevention. The current \$60 fee is based on the results of the 2013 CoSM and was implemented in 2015. The results of the most recently approved update to the Cost of Service Model indicated that these costs have increased and now amount to approximately \$80 per passport. This proposed fee is consistent with model results that reflect a steady increase in security-related costs since the fee was last updated in 2015. This proposed fee increase is a result of two main factors: 1) model methodology updates; and 2) increases in security-related costs.

The updates to the model's methodology improved accuracy in assigning costs to activities by more precisely tracing costs to specific consular activities, including isolating and assigning costs of enhanced border security to the passport security

surcharge. One update to the model's methodology since the last time the PSS was adjusted is an overhaul of the activity dictionary, which is the collection of defined processes and tasks that must be completed to produce a particular product, including a passport. All resources are assigned to activities based on the level of effort required for that activity. The activity dictionary changes focused on standardizing and clarifying tasks, ultimately improving accuracy in cost assignments. These changes resulted in more security-related costs being attributed to the PSS since this methodology update determined more precisely which passport activities are security-related and assigned them accordingly. Since this update, the model has produced consistent results for the PSS, leading to only modest increases in security-related costs in each annual update.

A second update to the model has been the implementation of the Consular Overseas Data Collection (CODaC) survey. CoSM uses CODaC data to produce accurate model inputs by collecting and developing cycle times (the exact amount of time it takes to perform an activity) for key activities performed overseas. CODaC also collects percentages of time spent on activities, which, when combined with cycle times and additional data, informs the total time (or level of effort) required to complete a particular activity. The survey is carried out three times per year, surveying an average of 70 posts per year. Every survey cycle solicits data from a blend of small, medium, large and extra-large posts, and every post is surveyed at least once every four years. This approach produces reliable model outputs for cost management and fee-setting. Since CODaC is focused on overseas data collection, it includes activities relevant to overseas passport processing, which informs and improves the overall quality of passport cost data. The current \$60 PSS fee, which is based on the 2013 model, did not include CODaC data. The overseas passport level of effort results have been consistent since implementing the more accurate CODaC survey. These methodology updates, included since the 2014 model, allow for the model to more precisely capture and assign the

security-related costs of passport application processing, which have indicated increased PSS costs.

The Department has also experienced a steady increase each year in costs incurred in support of enhanced border security since the last adjustment to PSS. Increases in security-related costs are largely due to increased compensation costs for passport adjudicators and enhanced printing technology costs for the Next Generation (NextGen) passport book. Compensation costs, which include all salary and overhead costs for direct-hire full-time employees (FTEs), represent the largest change, a 37 percent increase, in the Passport Directorate since the 2013 model update. More FTEs have been assigned to adjudication domestically in line with more rigorous security vetting standards, and the CODaC survey indicates that more time is required to adjudicate overseas passports than the data included in the 2013 model indicated. Additionally, a new passport agency in San Juan, Puerto Rico, was opened in 2014 to serve the needs of more than 3 million U.S. citizens, and the Department hired eight full-time passport adjudicators and one supervisory adjudicator for this purpose. This new passport agency offers local expedited and emergency passport services. Prior to the establishment of the San Juan agency, U.S. citizens who needed a passport within 14 days were obligated to travel to the Miami passport office to receive these services.

Passport adjudication may only be carried out by certified employees. Per the Code of Federal Regulations, passport adjudication is a specialized, security-centric function that may only be carried out by certified, full-time employee passport adjudicators. Becoming certified in passport adjudication takes more than a year of specialized training. Passport adjudication is also the central function to the processing of passports, and passport adjudication processes and systems are highly specialized and secure. Passport adjudicator staffing capacity is aligned to projected demand and human resources pipelines are planned far in advance in concert with demand forecasts.

Historically, the number of U.S. citizens with a valid passport continues to grow from 39 percent in 2015 to 44.5 percent in 2019. The Passport Directorate has a service level commitment to deliver completed passports within a specified timeframe, and must plan staffing accordingly. Pre-COVID-19, passport demand was expected to continue to grow from 2020-2030. As discussed below, in 2020, COVID-19 impacted passport demand, but that demand is expected to start recovering from the impacts of COVID-19 in FY 2022.

In this model update, non-compensation costs, which includes operating costs like domestic awards, contractor support costs, personnel travel and transportation, utilities, supplies, equipment, and CA technology costs that increase as FTE numbers increase were 17 percent higher than the 2013 model. The bulk of this increase was in Passport material book costs, which increased \$7 per unit. Improved printing technology (known as “NextGen”), which provides state-of-the-art anti-counterfeiting improvements, added an additional \$3.45 per unit. The NextGen printer system replaces end-of-life equipment that uses outdated technology, and improves passport security features in line with current international standards for identity documents while enhancing border security. NextGen printing includes material features such as an advanced embedded chip that is protected by a new polycarbonate coating, as well as other confidential physical attributes that enhance border security by preventing both falsification and duplication.

Lastly, the projected volumes used in this model update for passport products have fallen compared to prior year volumes as a result of COVID-19’s impact on passport demand, which does have a minimal impact on the unit cost. Unit costs are calculated as cost divided by volume, so if volume drops dramatically, the unit cost will increase. For example, in April of 2020, passport demand dropped 86 percent compared to April 2019. By August 2020, demand was 50 percent lower than August 2019, and by November 2020, demand was 33 percent lower than November 2019. The Department

anticipates that demand during the first half of 2021 will remain similar to the demand of late 2020, and will begin to recover by FY 2022. The volume projections used in the most recent model include volumes during the expected post-COVID-19 recovery period of FY 2022, and this additional year helps stabilize volume volatility experienced in FY 2020 and anticipated to continue in FY 2021. However, projected volumes for this three-year period are still lower than the peak volumes the Department experienced prior to 2020. The Department recognizes that there may be some minimal elasticity in demand for passports, but expects that any impact on demand from this proposed increase would be *de minimis*. The regulatory findings under the Executive Order 12866 section further discuss anticipated passport demand and associated increases in revenue.

For the reasons stated above, the Department recommends increasing the passport security surcharge from \$60 to \$80, which will in turn impact the overall amount of the passport book application fee paid by all applicants. As a result of this recommendation, the overall passport book application fee for a first-time, adult applicant (using a DS-11), as well for adults seeking renewals (DS-82), will increase from \$110 to \$130. The passport security surcharge increase will also result in an increase to the overall passport book application fee for minors (DS-11) from \$80 to \$100.

REGULATORY FINDINGS:

Administrative Procedure Act

The Department is publishing this rule as a proposed rule, with a 60-day provision for public comments.

Regulatory Flexibility Act

The Department has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6).

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

Congressional Review Act

This rule is a major rule as defined by 5 U.S.C. 804(2).

Executive Order 12866

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive orders. OMB has determined that this rule is economically significant under Executive Order 12866.

This proposed rule is necessary in light of the Department of State’s Cost of Service Model’s findings that the cost of providing certain consular services has changed significantly and justifies the adjustment of the passport security surcharge through the rulemaking process. The Department is setting the fees in accordance with 31 U.S.C. 9701 and other applicable authority, as described in more detail above. *See, e.g.*, 31 U.S.C. 9701(b) (2) (A) (“The head of each agency ... may prescribe regulations establishing the charge for a service or thing of value provided by the agency ... based on ... the costs to the Government.”). This regulation generally sets the fee for consular services at the amount required to recover the costs associated with providing these services.

The following table summarizes the impact of this proposed rule:

Item No.	Proposed Fee	Current Fee	Change in Fee	Percentage Increase	Estimated Annual Number of Services Requested \1\	Estimated Change in Annual Fees Collected \2\
SCHEDULE OF FEES FOR CONSULAR SERVICES						
* * * * *						
PASSPORT AND CITIZENSHIP SERVICES						
2. Passport Book Application Services for:						
(g) Passport book security surcharge (enhanced border security fee)	\$80	\$60	\$20	33.33%	FY20: 12,300,000 FY21: 12,300,000 FY22: 15,900,000	FY20: \$246,000,000 FY21: \$246,000,000 FY22: \$318,000,000
Total \3\	\$80	\$60	\$20	33.33%	15,900,000	\$318,000,000
* * * * *						

\1\ Projected passport workload included in this CoSM update, FY 2020, 2021 and 2022 receipts projected by the PPT directorate as of July 2020.

\2\ The Department of State retains this fee.

\3\ The Department anticipates implementing this fee change in FY 2022. FY 2022 volumes are used to project fee collection totals

Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13771

This rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because it is a transfer rule.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 22

Consular services, Fees.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is proposed to be amended as follows:

PART 22--SCHEDULE OF FEES FOR CONSULAR SERVICES—

DEPARTMENT OF STATE AND FOREIGN SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183a note, 1184(c)(12), 1201(c), 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632 (1957), 3 CFR, 1954-1958 Comp., p. 382; E.O. 11295, 31 FR 10603 (1966), 3 CFR, 1966-1970 Comp., p. 570.

2. In § 22.1, amend the table by revising entry 2(g) under the heading “Passport and Citizenship Services” to read as follows:

§ 22.1 Schedule of fees.

* * * * *

Schedule of Fees for Consular Services

Item No.	Fee
Passport and Citizenship Services	
* * * * *	
2. * * *	
* * * * *	
(g) Passport book security surcharge (enhanced border security fee)	\$80
* * * * *	

Ian Brownlee,

Acting Assistant Secretary for Consular Affairs,

U.S. Department of State.

Billing Code 4710-06

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